

Notice of Allowability

Application No.

10/501,576

Examiner

Eisa B. Elhilo

Applicant(s)

ELIU ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on February 23, 2007.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 3/16/2007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Eisa Elhilo
Primary Examiner
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DETAILED ACTION

- 1 This action is responsive to the amendment filed on February 23, 2007.
- 2 The terminal disclaimer filed on 2/23/2007 disclaiming the terminal portion of the patent
being reexamined which would extend beyond the expiration date of US. Patent No. 7,091,358
B2 has been reviewed and is accepted. The terminal disclaimer has been recorded.

EXAMINER'S AMENDMENT

- 3 An examiner's amendment to the record appears below. Should the changes and/or
additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR
1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the
payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with
Tyler A. Stevenson on March 16, 2007.

In the claims:

Please cancel claim 13.

In claim 1, in line 5, under the formula (I), delete the first "hydrogen".

In claim 4, in line 5, under the formula (I), delete the first "hydrogen".

In claim 4, in line 3, under the formula (II), delete the first "hydrogen".

In claim 5, in line 2, under the formula (II), delete the first "hydrogen".

In claim 6, in line 5, under the formula (I), delete the first "hydrogen".

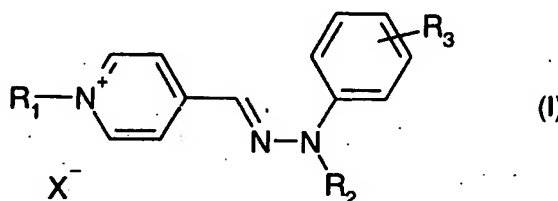
In claim 7, in line 3, delete "and".

In claim 9, in line 2, before the word "yellow", insert --composition comprising a --.

In claim 9, at page 6, in line 5, delete the first "hydrogen".

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In claim 11, replace the whole claim with the following claim, -- 11. A method for dyeing human hair comprising applying to the hair an alkaline oxidative dye mixture comprising at least one developer substance, at least one coupler substance, an oxidizing agent, a dye of a formula (I) and optionally a cationic dye and then, after a period of action, an acidic composition comprising at least one acid, a dye of a formula (I) and optionally a cationic dye, is applied to the hair, wherein at least one cationic direct dye being used in the method, wherein formula (I) is,



Wherein R_1 and R_2 are each independently of the other a C_1 - C_8 alkyl radical or substituted or unsubstituted benzyl radical, with the proviso that at least one of the substituents R_1 and R_2 is a substituted or unsubstituted benzyl radical, R_3 is C_1 - C_8 alkyl, C_1 - C_8 alkoxy, cyanide, halide or hydrogen, and X^- is an anion.--

In claim 12, replace the whole claim with the following claim, -- 12. The method according to claim 11, wherein said after a period of action, an acidic oxidative dye mixture comprising at least one developer substance, at least one coupler substance, an oxidizing agent, a dye of the formula (I) and optionally a cationic dye, is applied to the hair, wherein at least one cationic dye being used in the method.--

4 Claims 1-12 are allowed.

STATEMENT OF REASONS FOR ALLOWANCE

5 The following is an examiner's statement of reasons for allowance:

The closest prior art of record (US 6,001,135) teaches an oxidative dyeing composition comprising dyes of the formulae (III4), (III5) and (III9) (see col. 19). However, the closest prior art of record (US' 135) does not teach or disclose the dye of the claimed formula (I), in which at least one of R1 or R2 is benzyl radical as claimed. Accordingly, the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of hair dyeing formulation or in the art of cationic dye syntheses.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

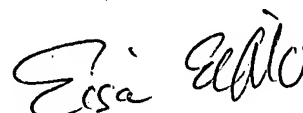
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Eisa Elhilo".

Eisa Elhilo
Primary Examiner
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March 17, 2007